

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

FILED

January 08, 2024
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY: NM
DEPUTY

JAMES THOMAS DEVINS,

Plaintiff,

v.

**UR M JADDOU, IN THE OFFICIAL
CAPACITY AS DIRECTOR OF THE
UNITED STATES CITIZENSHIP
AND IMMIGRATION SERVICES,**

Defendant.

CIVIL NO. SA: 5:23-CV-00152-OLG

ORDER

The Court has considered United States Magistrate Judge Chestney's Report and Recommendation (R&R), filed November 30, 2023, concerning Defendants Motion to Dismiss [#6] and Plaintiff's Motion to Amend Complaint [#13] (*See* R&R, Dkt. No. 16.)

A party who wishes to object to a Magistrate Judge's findings and recommendations must serve and file specific written objections within fourteen days. FED. R. CIV. P. 72(b)(2). A copy of the recommendation was mailed to James Thomas Devins, proceeding *pro se*, by certified mail on November 30, 2023 (*see* Dkt. No. 17) and received on December 4, 2023 (*see* Dkt. No. 19). James Thomas Devins timely filed his objections on December 18, 2023 (*see* Dkt. 20).

When a party objects to an R&R, the Court must make a de novo determination as to "any part of the magistrate judge's disposition that has been properly objected to." FED. R. CIV. P. 72(b)(3); *see United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989). Objections must be specific; frivolous, conclusory, or general objections need not be considered by the district court. *Battle v. U.S. Parole Com'n*, 834 F.2d 419, 421 (5th Cir. 1987) (quoting *Nettles v. Wainwright*, 677 F.2d 404, 410 n.8 (5th Cir. 1982), *overruled on other grounds by Douglass v. U.S. Auto. Ass'n*, 79 F.3d 1415 (5th Cir. 1996)). Any portions of the

Magistrate Judge's findings or recommendations that were not objected to are reviewed for clear error. *Wilson*, 864 F.2d at 1221.

Mr. Devins objects to the Magistrate Judge's recommendation that his motion to amend be denied and Defendant's motion to dismiss be granted (*See generally* Dkt. No. 20). The Court has conducted an independent review of the record and the applicable law as to the matters raised in Plaintiff's objections. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b). The Court finds that the Magistrate Judge correctly determined that Mr. Devins fails to allege sufficient facts to confer Article III standing and to establish this Court's subject matter jurisdiction over his federal claims. Furthermore, this Court finds that the Magistrate Judge also correctly determined that nothing in Mr. Devins's proposed amendment would alter the Court's evaluation of standing and subject matter jurisdiction.

Accordingly, the Court **ACCEPTS** the Magistrate Judge's R&R (Dkt. No. 16) and, for the reasons set forth therein, Defendant's Motion to Dismiss (Dkt. No. 6) is **GRANTED**, Plaintiff's Motion to Amend Complaint (Dkt. No. 13) is **DENIED**, and Plaintiff's claims against Defendant are **DISMISSED WITHOUT PREJUDICE**.

This case is **CLOSED**.

It is so **ORDERED**.

SIGNED this 6 day of January, 2024.

A handwritten signature in blue ink, appearing to read 'Orlando L. Garcia', is written over a horizontal line.

ORLANDO L. GARCIA
United States District Judge